

## Chapter 1. General Provisions

### 12002. General Definitions

Unless otherwise specified, the definitions in Business and Professions Code section 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the Penal Code (commencing with section 330), shall govern the construction of this division. As used in this division:

....

- (g) "Executive Director" means the executive officer of the Commission, as provided in Business and Professions Code section 19816 or his or her designee. If the Executive Director position is vacant, the "Executive Director" means the officer or employee who shall be so designated by the Commission.

....

**Authority:** Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3), and 19854, Business and Professions Code; Section 7, Government Code.

**Reference:** Sections 7.5, 19800, 19805, 19811, 19816, and 19951, Business and Professions Code.

### 12047. Withdrawal of Applications

A request by an applicant to withdraw the submitted application may be made at any time prior to the final action by the Bureau. The request shall be made in writing to the Commission. The Commission, pursuant to Business and Professions Code section 19869, may deny the request or may grant the request, with or without prejudice.

- (a) If a request for withdrawal is granted without prejudice, any unused portion of the background investigation deposit shall be refunded by the Commission.
- (b) If a request for withdrawal is granted with prejudice, the applicant shall not be eligible to apply again for licensure or approval until after the expiration of one year from the date the request for withdrawal is granted. Any unused portion of the background investigation deposit shall be refunded by the Commission.
- (c) If the request for withdrawal is denied, the Bureau shall proceed with the investigation of the applicant and provide a recommendation to the Commission for action on the application.

**Authority:** Business and Professions Code Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951.

**Reference:** Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, 19951, and 19984.

1 **12048. Abandonment of Applications**

2 At any time prior to final Commission action, the Executive Director may preliminarily  
3 determine that the application is abandoned. Such preliminary determination may be based  
4 upon recommendation of the Bureau, failure of the applicant to respond to Bureau or  
5 Commission inquiries, or notification by the applicant that the application is no longer being  
6 pursued. If the determination is not based upon applicant's notice to the Commission, then  
7 notice will be sent to the applicant, with a copy to the applicant's employer by certified mail  
8 indicating that unless the applicant contacts the Commission within 30 days from the date of  
9 the letter, the application shall be deemed abandoned. An abandoned application cannot be  
10 reactivated.

11 **Authority:** Business and Professions Code Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951.

12 **Reference:** Business and Professions Code Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, and  
13 19951.  
14

15 **12050. Hearing Procedures; Appeal of Denial of or Imposition of Conditions on**  
16 **application for license, permit, or request for finding of suitability.**

17 (a) If the Bureau, after an investigation pursuant to Business and Professions Code  
18 section 19826, subdivision (a), issues a recommendation to deny, limit, restrict, or  
19 condition a license, permit, or finding of suitability, the Bureau shall provide the  
20 applicant with a copy of the Bureau's final report as described in Business and  
21 Professions Code section 19868, subdivision (b), which includes a detailed factual  
22 and/or legal basis for any recommendation as well as the Bureau's recommendation to  
23 the Commission and any supplemental documents provided to the Commission at the  
24 time of the report and recommendation. Any applicant for any license, permit, or  
25 finding of suitability for whom Commission staff has issued a recommendation of  
26 denial or imposition of conditions shall be given notice by certified mail of the  
27 Commission meeting at which the application is scheduled to be heard and the  
28 Commission staff recommendation at least 10 days prior to the meeting. The  
29 applicant shall be afforded the opportunity to:

30 (1) Address the Commission by way of an oral statement at a noticed Commission  
31 meeting, and/or may submit documents in support of the application, or

32 (2) Request an evidentiary hearing.

33 (b) If the applicant requests an evidentiary hearing or the Commission elects to have an  
34 evidentiary hearing, the Executive Director shall set the matter for hearing pursuant to  
35 Business and Professions Code sections 19870 and 19871, or pursuant to Business  
36 and Professions Code section 19825 (conducted pursuant to Chapter 5 (commencing  
37 with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

38 (1) If the hearing is to proceed pursuant to Business and Professions Code section  
39 19825 (Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title  
40 2 of the Government Code; California Code of Regulations, title 1, section 1000 et  
41 seq.), the hearing shall be before an administrative law judge sitting on behalf of  
42 the Commission. Notice shall be effected pursuant to Government Code section  
43 11500 et seq.

- 1 (2) If the hearing is to proceed pursuant to Business and Professions Code sections  
2 19870 and 19871, notice shall be effected by the Commission, and the hearing  
3 before the Commission shall be conducted pursuant to Business and Professions  
4 Code section 19871:
- 5 (A) The Bureau or Commission staff or Deputy Attorney General or other  
6 representative presenting the case (Complainant) shall provide the applicant,  
7 at least 30 calendar days prior to the hearing, a list of potential witnesses with  
8 the general subject of the testimony of each witness and shall disclose and  
9 make available copies of all documentary evidence intended to be introduced  
10 at the hearing and not previously provided, reports or statements of parties  
11 and witnesses and all other writings containing relevant evidence, including  
12 all evidence made available to the Commissioners. The applicant shall  
13 provide Complainant with similar information to be introduced at the hearing  
14 and not previously provided at least ten calendar days prior to the hearing.  
15 The Commissioners may prohibit testimony of a witness that is not disclosed  
16 and may prohibit the introduction of documents that have not been disclosed.
- 17 (B) Nothing in this section confers upon an applicant a right to discovery of the  
18 Commission's or Bureau's confidential information or to require production of  
19 any document or information the disclosure of which is otherwise prohibited  
20 by any provision of the Gambling Control Act, or is privileged from disclosure  
21 or otherwise made confidential by law. Documentary evidence may be  
22 redacted as needed to prevent the disclosure of confidential information.  
23 Exculpatory or mitigating information shall not be withheld from the applicant,  
24 but may be redacted.
- 25 (C) Within the guidelines of subsection (b)(2)(A) above, each party shall have the  
26 right to call and examine witnesses; to introduce relevant exhibits and  
27 documentary evidence; to cross-examine opposing witnesses on any relevant  
28 matter, even if the matter was not covered in the direct examination; to  
29 impeach any witness, regardless of which party first called the witness to  
30 testify; and to offer rebuttal evidence. If the applicant does not testify on the  
31 applicant's own behalf, the applicant may be called and examined as if under  
32 cross-examination.
- 33 (D) The hearing need not be conducted according to technical rules of evidence.  
34 Any relevant evidence may be considered, and is sufficient in itself to support  
35 findings if it is the sort of evidence on which responsible persons are  
36 accustomed to rely in the conduct of serious affairs, regardless of the  
37 existence of any common law or statutory rule that might make improper the  
38 admission of that evidence over objection in a civil action. A presiding officer,  
39 which shall be an administrative law judge or an attorney designated by the  
40 Commission, shall rule on the admissibility of evidence and on any objections  
41 raised.
- 42 (E) Oral evidence shall be taken upon oath or affirmation, which may be  
43 administered by a staff member of the Commission or by a Commissioner.

1 (F) The hearing shall be stenographically or electronically recorded by the  
2 Commission.

3 (G) At the conclusion of the hearing, the Commission shall take the matter under  
4 submission and may schedule future closed session meetings for  
5 deliberation. In taking the matter under consideration, any Commissioner  
6 who participated at the hearing shall be allowed to vote by mail or by other  
7 appropriate method. Within 30 days of the conclusion of the hearing, the  
8 Commission shall issue a decision which complies with Business and  
9 Professions Code section 19870, subdivision (c), and shall serve the decision  
10 by certified mail on the applicant and on any business entity with which the  
11 applicant is associated.

12 (3) At the hearings described in subsections (b)(1) and (2) above, the burden of proof  
13 rests with applicant to demonstrate why a license, permit, or finding of suitability  
14 should be issued or not conditioned. The applicant may choose to represent  
15 himself, herself, or itself, or may retain an attorney or lay representative at his,  
16 her, or its own expense. A representative of the Bureau shall present the reasons  
17 why the license, permit, or finding of suitability should not be granted or should be  
18 granted with conditions imposed. In the event that the Bureau does not present  
19 the case, the Commission may seek outside representation or one or more  
20 Commission staff members shall be segregated and present the case.

21 (c) If the application is denied or conditions imposed:

22 (1) The Commission's decision shall provide the effective date of the decision and  
23 may include further directions as to stay provisions or orders to divest.

24 (2) If the denied applicant is an officer, director, employee, agent, representative, or  
25 independent contractor of a corporation licensed, registered, or found suitable by  
26 the Commission, the denied applicant shall resign according to the date specified  
27 in the decision and shall so notify the Commission in writing.

28 (3) If the denied applicant is an officer or director of a corporation licensed, registered,  
29 or found suitable by the Commission, the corporation shall immediately remove  
30 that person from office and shall so notify the Commission in writing. If the denied  
31 applicant is an employee, agent, representative, or independent contractor of a  
32 corporation licensed, registered, or found suitable by the Commission, the  
33 corporation shall terminate its relationship with that person pursuant to the date  
34 specified in the decision and shall so notify the Commission in writing. The denied  
35 applicant and the corporation licensed, registered, or found suitable by the  
36 Commission shall comply with Business and Professions Code section 19882.

37 (4) If the denied applicant is a general or limited partner in a general or limited  
38 partnership licensed, registered, or found suitable by the Commission, the denied  
39 applicant shall resign as partner. If the denied applicant is an owner or holder of an  
40 interest in a limited partnership licensed, registered, or found suitable by the  
41 Commission, the denied applicant and the limited partnership shall comply with  
42 Business and Professions Code section 19892 and shall so notify the Commission  
43 in writing.

1 (5) If the denied applicant is a principal in a business entity not otherwise described  
2 above which is licensed, registered, or found suitable by the Commission, the  
3 denied applicant shall resign his or her position within that entity and divest  
4 whatever interest is held in that entity pursuant to the timelines and instructions  
5 specified in the decision, and shall so notify the Commission in writing. The  
6 business entity shall remove the denied applicant from any principal role in the  
7 business entity and shall so notify the Commission in writing.

8 (6) An applicant denied a license, permit, registration, or finding of suitability, or whose  
9 license, permit, registration, or finding of suitability has had conditions imposed  
10 upon it may request reconsideration by the Commission within 30 days of notice of  
11 the decision. The request shall be in writing and shall outline the reasons for the  
12 request, which must be based upon either newly discovered evidence or legal  
13 authorities that could not reasonably have been presented before the  
14 Commission's issuance of the decision or at the hearing on the matter, or upon  
15 other good cause for which the Commission in its discretion decides merits  
16 reconsideration. The Commission Chair may delegate to the Executive Director  
17 the authority to determine whether to place requests for reconsideration on the  
18 Commission agenda or to act on them at the Commission staff level. If placed on  
19 the Commission agenda, the applicant requesting reconsideration shall be notified  
20 of the date and time of the agenda item. The granting or denial of reconsideration  
21 is at the discretion of the Commission. The Commission shall notify the applicant  
22 requesting reconsideration whether or not reconsideration is granted or denied  
23 within 30 days of the applicant's request. If the Commission grants reconsideration,  
24 the effective date of the decision shall be stayed or vacated, at the Commission's  
25 discretion, while the decision is reconsidered.

26 (d) An appeal of a denial or imposition of conditions by the Commission shall be subject to  
27 judicial review under Code of Civil Procedure section 1085 (pursuant to Business and  
28 Professions Code section 19870, subdivision (e)). Neither the right to petition for  
29 judicial review nor the time for filing the petition shall be affected by failure to seek  
30 reconsideration.

31 (e) Proceedings to revoke, suspend, or discipline a license, registration, permit, finding of  
32 suitability, or other approval shall be pursuant to Chapter 10 of these regulations.

33 Authority: Sections 19804, 19870 and 19872, Business and Professions Code.

34 Reference: Sections 19868, 19870, 19879, 19883, 19892, Business and Professions Code.

## 35 36 Chapter 6. State Gambling Licenses and Approvals for 37 Gambling Establishments, Owners, and Key Employees

### 38 **12348. Mandatory and Discretionary Grounds for Denial of Application for a** 39 **State Gambling License or Key Employee license.**

40 (a) An application for a state gambling license or key employee license shall be denied by the  
41 Commission if any of the following apply:

42 (1) The Commission finds that the applicant is ineligible, unqualified, disqualified, or  
43 unsuitable pursuant to the criteria set forth in the Act or other applicable law or that



1 granting the license would be inimical to public health, safety, welfare, or would  
2 undermine the public trust that gambling operations are free from criminal or  
3 dishonest elements.

- 4 (2) The Commission finds that the local ordinance does not conform to the requirements  
5 of Business and Professions Code section 19860.

6 (b) An application for a state gambling license may be denied if:

- 7 (1) The Commission finds that the applicant meets any of the criteria for license denial  
8 set forth in Business and Professions Code section 19862, subdivision (a).

- 9 (2) The Commission finds that an applicant has attempted to communicate or has  
10 communicated *ex parte*, as that term is defined in Business and Professions Code  
11 section 19872, subdivision (e), with one or more Commissioners, through direct or  
12 indirect means, regarding the merits of the application while the application is  
13 pending disposition at the Bureau or the Commission.

- 14 (3) The Commission finds that the applicant's past behavior calls into question the  
15 applicant's qualification requirements and considerations outlined in Business and  
16 Professions Code section 19856. Examples of past behavior that may be considered  
17 include, but are not limited to:

18 (A) Convictions which demonstrate a pattern of disregard for the law,

19 (B) A conviction involving gambling or gambling-related activities,

20 (C) A final administrative decision concluding that there was a violation of law  
21 involving gambling or gambling-related activities, or

22 (D) A conviction regarding or final administrative decision concluding that there was  
23 a violation of campaign finance disclosure or contribution limitations applicable to  
24 an election conducted pursuant to Business and Professions Code section  
25 19960.

- 26 (4) The Commission finds that the applicant has, within ten years immediately  
27 preceding the submission of the application, willfully or persistently violated any of  
28 the following:

29 (A) Any regulation adopted by the Commission or Bureau.

30 (B) Any condition, limitation, or directive imposed on a previously held state  
31 gambling or key employee license.

32 (c) The grounds for denial set forth in this section apply in addition to any grounds prescribed  
33 by statute or any grounds that would support revocation under chapter 10 of these  
34 regulations.

35 **Authority:** Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19861, 19870, 19872, 19880,  
36 19890, and 19982, Business and Professions Code.

37 **Reference:** Sections 19850, 19851, 19852, 19857, 19858, 19859, 19860, 19862, 19863, and 19960,  
38 Business and Professions Code.